

## ARTICLE 5 Regulated Marijuana Businesses

On November 8, 2022 the voters of Grand Lake approved Town of Grand Lake Question 2C, “allow[ing] the operation of marijuana businesses in the town and amending the municipal code by the addition of new sections permitting, subject to regulations to be adopted by ordinances of the town, certain activities relating to marijuana, and by so doing repeal the Article 5 of Chapter 7 and Article 11 of Chapter 7, or other section of the Grand Lake Municipal Code, to the extent they are inconsistent with such authorization[.]” The Town of Grand Lake Board of Trustees hereby finds, determines, and declares that it has the power to adopt this Article 5 of Chapter 6 of the Grand Lake Municipal Code pursuant to Chapter XVIII, section 16 of the Colorado Constitution; Colorado Revised Statutes section 44-10-104(3); Chapter XX of the Colorado Constitution; the Town of Grand Lake Home Rule Charter; and the Local Government Land Use Control Enabling Act, Chapter 20 of title 29, Colorado Revised Statutes. (Ord. 559, Series of 2021).

### Sec. 6-5-1. Definitions.

Unless defined in this Section, or if the context clearly requires otherwise, capitalized terms within this Article shall have the meaning attributed to them in the Code of Colorado Regulations – Colorado Marijuana Rules – 1 CCR 212-3(1-115), adopted by the Colorado Marijuana Enforcement Division, Department of Revenue, as of the effective date hereof.

- (a) *Applicant* means any Person applying to the Town for a License, including without limitation any Entity and/or any Person who qualifies as a Controlling Beneficial Owner.
- (b) *Article* means Article 5 of Chapter 6 of the Grand Lake Municipal Code.
- (c) *Board* means the Town of Grand Lake Board of Trustees.
- (d) *License* means a license issued by the Town to operate a Medical Marijuana Store and a Retail Marijuana Store at one location within the Town.
  - 1. A Licensee shall be required to operate as a Retail Marijuana Store, and shall have the option to also operate as a Medical Marijuana Store.
- (e) *Licensee* means a Person who has been issued a License by the Town.
- (f) *Lottery* means the lottery selection process under Section 6-5-7(i) of this Article.
- (g) *MED* means the Colorado, Department of Revenue, Marijuana Enforcement Division.
- (h) *Regulated Marijuana Business* means Medical Marijuana Businesses and Retail Marijuana Businesses.
- (i) *Colorado Marijuana Code* means Colorado Revised Statutes Title 44, Article 10, Section 101 *et seq.*, and the Colorado Marijuana Rules promulgated pursuant thereto at 1 CCR §212-3.
- (j) *Regulated Marijuana Store* means a Medical Marijuana Store or Retail Marijuana Store.
- (k) *State* means the State of Colorado.
- (l) *Town* means the Town of Grand Lake, Colorado.

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(m) *Town Code* means the Grand Lake Municipal Code.

### **Sec. 6-5-2. License Types Permitted.**

Regulated Marijuana Stores shall be the only Regulated Marijuana Business license type permitted in the Town. All other Regulated Marijuana Business license types shall remain prohibited. It shall furthermore be unlawful for any Person to own or operate a Regulated Marijuana Store without first obtaining all necessary permits, licenses, and approvals to operate such a business from the Town pursuant to this Article and from the State pursuant to the Colorado Marijuana Code.

### **Sec. 6-5-3. Local Licensing Authority.**

- (a) The Board is hereby designated the Local Licensing Authority with all powers granted thereto by the provisions of the Colorado Marijuana Code. Any decision made by the Board to (i) grant or deny a License, (ii) revoke or suspend a License, (iii) renew or not renew a License, (iv) fine a Licensee, or (v) place a License on probationary conditions, shall be a final decision and may be appealed to district court pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure.
- (b) In case of an application resubmitted directly to the Town pursuant to Section 16(5)(h) of Article XVIII of the Colorado Constitution, due to the failure of the state licensing authority to act upon an application within ninety (90) days, the Board shall act as the licensing authority thereunder and all requirements of this Article shall apply to such application. In addition to compliance with this Article, the Applicant shall demonstrate compliance with all applicable requirements of the Colorado Marijuana Code and shall pay to the Town the full amount of the application fee if not forwarded by the State. The Board shall approve or deny such application within ninety (90) days after receipt of the resubmitted application.
- (c) The Town Clerk, or their designee, shall assist the Board by receiving all applications, coordinating with other Town officers and departments when relevant, scheduling required public hearings and providing notice in accordance with this Article, the Town Code, and the Colorado Marijuana Code. The Town Clerk, or their designee, shall also act as the local point-of-contact with the MED on all marijuana regulatory matters.

### **Sec. 6-5-4. Limitation on Number of Licenses.**

- (a) The Board shall have the authority to initially grant and issue one (1) License pursuant to this Article and the Colorado Marijuana Code. This one (1) License shall be awarded pursuant to the application and Lottery selection process as set forth in this Article.
  - (1) One (1) year from the date the first Licensee opens for sales to the public, , or upon motion by the Board, the Board shall review (i) the results and impacts of marijuana legalization in the Town, and (ii) the operation and implementation of the provisions and procedures in this Article. If upon such review the Board determines it is in the best interest of the Town, the Board shall have the discretionary authority to grant and issue one (1) additional License. This second License shall be awarded pursuant to a

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new application and Lottery selection process as set forth in this Article, or pursuant to an alternative process as the Board shall provide by resolution.

(b) In the event that a previously granted and issued License is revoked, not renewed, surrendered, or terminated, resulting in the permanent loss of that License by a Licensee, and therefore fewer than two (2) Licenses are issued and active within the Town, the Board may, at the Board's discretion, approve and issue additional License(s) pursuant to a new application and Lottery selection process as set forth in this Article, or pursuant to an alternative process as the Board shall provide by resolution.

(c) At no time shall there be more than two (2) Licenses issued and active within the Town.

**Sec. 6-5-5. Limitations and Requirements Applicable to Regulated Marijuana Stores.**

(a) *State requirements.* Regulated Marijuana Stores must at all times comply with the regulations and requirements contained in the Colorado Marijuana Code. The Local Licensing Authority may revoke or otherwise penalize a Licensee pursuant to Section 6-5-15 of this Article.

(b) *Location.* Regulated Marijuana Stores shall only be located on property within the Commercial Zoning District or a planned development district; but shall not be permitted on any parcel east of Broadway Street. Regulated Marijuana Stores shall not be permitted to operate as "home occupations."

(c) *Separation requirements.*

(1) No License shall be approved if, at the time of the initial application for such License, the proposed location is within three hundred (300) feet of:

- i. Any established and conspicuously identified elementary or secondary school;
- ii. Existing licensed child care facility; or
- iii. Any existing Regulated Marijuana Store.

(2) The distances set forth in this Subsection shall be computed by direct measurement in a straight line from the nearest property line of the land used for the purposes stated above, respectively, to the nearest portion of the building in which the Regulated Marijuana Store is located. The locational criteria contained in this Section shall apply to all proposed changes in the location of an existing License.

(3) The Board may waive the distance requirements set forth in this Subsection for a specified location if an Applicant demonstrates that granting such a waiver will not negatively impact the health, safety, or welfare of the Town.

(d) *Co-location & Retail Marijuana Store.* Any License issued by the Town shall allow for both a Medical Marijuana Store and a Retail Marijuana Store to operate on the same Licensed Premises under one License.

(1) Each Licensee shall be required to operate as a Retail Marijuana Store, and shall have the option to also operate as a Medical Marijuana Store.

(e) *Signage & Advertisements.* Advertisements, signs, displays or promotional material depicting marijuana, marijuana plants, or any other pictures or symbols commonly

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understood to refer to marijuana, shall not be shown or exhibited on the exterior of a Licensed Premises or in any other location within the Town where visible from a public right-of-way. No signage associated with a Regulated Marijuana Store shall use the word "marijuana," "cannabis," or any other word or phrase commonly understood to refer to marijuana. All exterior signage associated with a Regulated Marijuana Store must comply with the Town Sign Code at Chapter 6 of Article 2 of the Town Code and must receive a sign permit pursuant thereto. Existing exemptions in the Town Sign Code shall not apply to exterior signage associated with the Regulated Marijuana Store.

(1) Notwithstanding the foregoing, and so long as in compliance with all other applicable signage and advertisement requirements, a Licensee's exterior signage shall be permitted to use:

i. The words "Recreational" and "Dispensary" one (1) time each, the text of which shall be no larger than [enter maximum size];

ii. One (1) green cross symbol no larger than [enter maximum size];

iii. If the Licensee also operates as a Medical Marijuana Store, the word "Medical" one (1) time, the text of which shall be no larger than [enter maximum size].

(f) *Indoor Operation.* All Regulated Marijuana Store operations (except transportation) shall be conducted indoors, and shall not be visible from the exterior of the building.

(g) *Inspection of Licensed Premises.* During all business hours and other times of apparent activity, the Licensed Premises and the property associated with a License shall be subject to inspection by Town personnel, or commissioned police officers of the Town, for the purpose of investigating and determining compliance with the provisions of this Article, the Colorado Marijuana Code, and any other applicable state or local law or regulation. Such inspection may include, without limitation, the inspection of books, records and inventory. Where any part of the Licensed Premises or property consists of a locked area, such area shall be made available for inspection, without unreasonable delay, upon request.

(h) *Additional Requirements.* Regulated Marijuana Stores shall be subject to the following additional requirements:

(1) A Regulated Marijuana Store may only be open to the public during the hours of 8:00 a.m. to 10:00 p.m. unless the Board authorizes extended hours of operation as a provision of the License, but in no event shall such authorization extend past 12:00 a.m. The Board may only authorize such extension after making a determination that such hours of operation are appropriate for the neighborhood.

(2) No on-site consumption of marijuana is allowed.

(3) A Town business license and sales tax license shall be required.

(4) No mobile structure may be used to operate a Regulated Marijuana Store.

(5) No alcohol sales or consumption shall be permitted on the Licensed Premises.

(6) A Licensee shall not permit persons who do not possess a valid identification or other appropriate proof of age to enter or loiter on or about the Licensed Premises.

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- (7) All Regulated Marijuana Stores, and their owners, officers, employees, and agents must comply at all times with all other applicable provisions of the Town Code.
  - (8) Whenever the provisions of the Colorado Marijuana Code require a Licensee to submit licensing, operational, investigative, or incident documentation to the MED or other governmental entities, the Licensee shall provide copies of all such submissions to the Town Clerk.
  - (9) All Regulated Marijuana Stores shall post conspicuous signage at each Point of Sale, and at each customer point of egress from the Licensed Premises, printed in red, stating the following:

**WARNING: FEDERAL LANDS  
MARIJUANA USE AND POSSESSION IS  
ILLEGAL ON ALL FEDERAL LANDS  
INCLUDING IN ROCKY MOUNTAIN  
NATIONAL PARK**

- (i) *Proper Ventilation.* All Regulated Marijuana Stores shall be equipped with a proper ventilation system that filters out the odor of marijuana so that the odor is not capable of being detected by a person with a normal sense of smell at the exterior of Licensed Premises or any adjoining business, parcel, or tract of real property. All Applicants for a new License shall submit a ventilation and odor mitigation plan with their Application, which shall be subject to review and approval by the Board prior to issuance of a new License. The lack of an approved ventilation and odor mitigation plan shall be grounds for denial of a new License or renewal of an existing License. Failure to install or maintain the ventilation system required by an approved ventilation and odor mitigation plan shall constitute a violation of this Article and shall be grounds for suspension or revocation of a License pursuant to Section 6-5-15 of this Article.

#### **Sec. 6-5-6. Retail Marijuana Sales Tax**

- (a) A retail marijuana sales tax is imposed upon all retail sales of retail marijuana and retail marijuana products sold within the Town by Retail Marijuana Stores at the rate of five percent (5%) of the gross price paid by the purchaser, rounded off to the nearest penny. The tax imposed by this Section is in addition to, and not in lieu of, the general sales tax owed to the Town and all taxes owed to the State in connection with the sale of retail marijuana and retail marijuana products. The Board may, by resolution, raise the retail marijuana sales tax under this Section to no higher than fifteen percent (15%). Where possible, retail marijuana sales tax revenues shall be collected pursuant to Section 4-3-8 of the Town Code. The Town Manager may adopt administrative rules and regulations specifying additional or alternative procedures for the collection and enforcement of the retail marijuana sales tax imposed by this Section.
- (b) Medical Marijuana sales shall not be subject to any Town marijuana sales tax, but shall be subject to the general sales tax owed to the Town.

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### **Sec. 6-5-7. Lottery Phase Application Requirements**

- (a) The Town hereby establishes a two-phase License application process. The Lottery Phase shall consist of application submissions for the purpose of entry into the Lottery to be conducted by the Town pursuant to this Section. The Licensing Phase shall consist of a separate application submitted by the Applicant selected in the Lottery for the purpose of licensing approval and issuance by the Board pursuant to Sections 6-5-8, 6-5-9, and 6-5-10 of this Article.
- (b) Within forty-five (45) days of the effective date of this Article, the Town shall post notice on its website indicating that Lottery Phase applications shall be accepted for a sixty (60) day period.
- (c) *Lottery Phase Applications.* An Applicant shall submit a Lottery Phase application to the Town on forms provided by the Town Clerk and posted on the Town website. As part of the Lottery Phase applications, all Applicants, including all Controlling Beneficial Owners associated therewith, shall submit to the Town Clerk, without limitation:
  - 1. A copy of a form of identification issued by the government of the United States, the government of any state within the United States, or the government of a United States Territory.
    - i. Such identification shall not be expired and shall include name, address, and date of birth.
  - 2. Evidence of lawful presence or residence in the United States.
  - 3. Completion of criminal and moral character disclosure form.
  - 4. Proof of submission to the MED, for all Controlling Beneficial Owners, of an application for Findings of Suitability
    - i. The Applicant must also submit to the Town copies of all such MED applications.
  - 5. Curriculum vitae for the Applicant, each Controlling Beneficial Owner, and any managers associated with the Applicant.
  - 6. If the Applicant is a business entity, information regarding the entity, including without limitation:
    - i. The name and address of the entity;
    - ii. Identification of all Controlling Beneficial Owners of the entity;
    - iii. Certificate of good standing from the Colorado Secretary of State;
    - iv. An organizational chart;
    - v. If a corporation: Articles of Incorporation, Shareholders Agreement, and Bylaws;
    - vi. If a limited liability company: Articles of Organization, and Operating Agreement; and

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- vii. Other business entity documentation as may be requested by the Town Clerk.
  - 7. Proof of access to adequate funding to cover start-up expenses of not less than \$150,000.
    - i. If the Applicant cannot document proof of access to adequate funding at the time of submission of a Lottery Phase application, the Applicant must submit a written Funding Plan for the purpose of obtaining adequate funding to cover start-up expenses of not less than \$150,000.
  - 8. A copy of any deed, lease, letter of intent, or other contract reflecting the right, or the right conditioned on License approval, of the Applicant to possess and operate a Regulated Marijuana Store at a location permitted by this Article.
    - i. If the property of the proposed Regulated Marijuana Store is located within an owners association, or a Planned Development under 12-2-25 of the Town Code, the applicant shall provide proof that the proposed Regulated Marijuana Store use complies with all applicable covenants and required approvals thereunder.
    - ii. If the Applicant cannot provide documentation satisfying this Subsection at the time of submission of a Lottery Phase application, the Applicant must submit a written plan for securing a right to possess and operate a Regulated Marijuana Store at a location permitted by this Article.
  - 9. Executive Summaries of Applicant's:
    - i. Business Plan;
    - ii. Operations Plan;
    - iii. Compliance Plan;
    - iv. Security Plan, including without limitation:
      - A. Complying with MED security regulations;
      - B. Theft and diversion prevention; and
      - C. Other locational and community-specific security concerns
    - v. Staffing Plan;
    - vi. Community Engagement Plan, including without limitation, Applicant's history of community service;
    - vii. Odor Mitigation and Ventilation Plan;
    - viii. Personnel Experience, including without limitation:
      - A. Operating a licensed marijuana business in Colorado or another state; or
      - B. Operating a business in a highly regulated industry.

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(d) *Bonus Weight Criteria.*

1. An Applicant shall be awarded fifteen percent (15%) bonus weight in the Lottery selection process if the Applicant submits proof that no less than fifty-one percent (51%) of all Controlling Beneficial Owners associated with the Applicant have continuously resided full-time in the Town, or in Grand County, Colorado, for no less than one (1) full year immediately preceding the date of submission of Applicant's Lottery Phase application.
2. An Applicant shall be awarded ten percent (10%) bonus weight in the Lottery selection process if the Applicant submits proof that the Applicant is a Social Equity Licensee under the Colorado Marijuana Code.
3. Bonus weight under this subsection shall not be cumulative. The maximum bonus weight an Applicant can receive, even if the Applicant qualifies under both bonus criteria, is fifteen percent (15%).

(e) *Lottery Phase Application Fees.* Along with the Lottery Phase application, all Applicants must submit a Lottery Phase application fee to the Town to cover costs associated with processing, investigating and administering the Lottery Phase application process. The Lottery Phase application fee shall be established by the Town by resolution.

(f) *Common Control Prohibition.* No Person or Entity may apply on behalf of another Person or Entity. Multiple Lottery Phase application submissions by the same Person or Entity, or applications by multiple entities with substantially the same ownership or who are Affiliated Entities (as defined below), are prohibited and will be rejected. No Applicant shall provide, rely on, or include in their Funding Plan under Section 6-5-7(C)(7), any funding which is shared, or in any way associated with, another Applicant's source or plan for funding. All Controlling Beneficial Owners associated with an Applicant shall be required to attest, subject to criminal penalties for perjury, that they are not affiliated with any other Applicant, and that they do not share common control or funding with any other Applicant as set forth in this Subsection. Submission of a Lottery Phase application in violation of this Subsection shall result in the rejection of all Lottery Phase applications associated with such violation.

1. For purposes of this Subsection, "substantially the same ownership" and "Affiliated Entities" are defined as follows:
  - i. "Substantially the same ownership" means that entities share any Controlling Beneficial Owners in common.
  - ii. "Affiliated Entities" means:
    - A. A Person having ownership or any level of control in common with an entity, in whole or in part, including, without limitation, an entity's parent corporation, franchisor, licensor, and any subsidiaries or affiliates of such parent corporations; or
    - B. A Person who has a direct business or an immediate familial relationship with another person or a person or entity using the same trade name as another person or entity.



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2. Applicants may not transfer an Application to a third party at any time during any stage of the Lottery Phase or Licensing Phase of the application process.
  3. To ensure compliance with the prohibitions of this Subsection, during the first two years following the License issuance date, the Licensee shall not transfer its License, alter its ownership or ownership structure as it pertains to Controlling Beneficial Owners, or change its name or trade name.
    - i. The Board may waive this requirement if good cause is shown, and if such waiver will neither undermine the purpose of this Section nor negatively impact the health, safety, or welfare of the Town.
  4. The Board may promulgate rules and regulations as needed to carry out the intent of this Section to ensure and confirm that each Applicant is a wholly separate business owned, operated, funded, and controlled by a wholly separate Person or Entity, with no affiliation to any other Applicant.
- (g) *Completeness Review.* The Town Clerk, or their designee, shall review Lottery Phase applications for completeness as they are received. If a Lottery Phase application is found to be incomplete, the Town Clerk, or their designee, shall notify the Applicant in writing, via email and U.S. mail, of the Application's deficiencies, and the Applicant shall have fifteen (15) days from the date of the deficiency notice to remedy the deficiency(ies). If the Applicant fails to remedy the deficiency(ies) within the specified period, the Town Clerk, or their designee, shall deny the Application and notify the Applicant of the denial.
1. Denial of an Application at the completeness review stage under this Subsection is appealable to the Town Manager by filing an appeal with the Town within ten (10) days of the date the notification of the denial was mailed. The Town Manager shall schedule a hearing within twenty (20) days of the filing of the appeal. The Town shall provide at least seven (7) days' notice to the appellant of the hearing. The Town Manager shall make a determination of the appeal within ten (10) days of the hearing and shall notify the appellant of the decision in writing.
- (h) *Board Review.* At the end of the completeness review period under this Section, including the appeals process thereunder, if any, the Town Clerk, or their designee, shall submit to the Board all Lottery Phase applications determined to be complete. At its next regular public meeting, the Board shall review each complete Lottery Phase application to determine qualification, pursuant to this Section, for entry into the Lottery. The Board shall make such determinations and notify each Applicant, in writing, no later than thirty (30) days from such public hearing. Applicants shall qualify for entry into the Lottery by demonstrating, through the Lottery Phase application materials submitted to the Town, that the Applicant possesses sufficient:
1. Knowledge of applicable state and local laws and regulations,

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2. Knowledge of the legal marijuana industry and/or competence in operating a business in another highly regulated industry, and
  3. Professionalism in business plans, operational plans, and other submitted materials.
- (i) *Lottery Selection.* Upon final determination by the Board of all Lottery Phase applications that qualify for entry into the Lottery, the Town shall conduct a random Lottery at its next regular public meeting, subject to Subsection (d) of this Section, to select which Applicant shall proceed with the License Application process under Section 6-5-8. Following such selection, and at the same public meeting, the Town shall also conduct a random Lottery to select alternate Applicants by assigning each alternate Applicant an alternate preference number corresponding to the order in which they were selected.
1. The Town may adopt administrative rules and regulations specifying the policies and procedures for conducting the Lottery.

#### **Sec. 6-5-8. License Phase Application Requirements**

- (a) *License Phase Application.* No later than sixty (60) days from the date of the Lottery, or from the date an alternate Applicant is notified by the Town pursuant to Section 6-5-8(D)(2), the Applicant selected in the Lottery shall submit a License Phase application to the Town on forms provided by the Town Clerk and posted on the Town website.
- (b) As part of the License Phase application, the Applicant shall submit, without limitation:
2. A copy of any deed, lease, or contract reflecting the right, or the right conditioned on License approval, of the Applicant to possess and operate a Regulated Marijuana Store at the location specified in the License Phase application.
  3. Updated and comprehensive business plans, tailored to the location specified in the License Phase application, covering all subject areas set forth in Section 6-5-7(c)(9).
  4. Proof of Findings of Suitability issued by the MED for all Controlling Beneficial Owners of the Applicant.
  5. Proof of submission to MED of a Regulated Marijuana Business License Application.
    - i. The Applicant must also submit to the Town copies of such MED application(s).
  6. Town Sales Tax License.
  7. Town Business License.
  8. Proof of submission to the Town of a Conditional Use Permit Application pursuant to Town Code 12-2-31(B).
  9. If any information about the Applicant has changed since the submission of the Lottery Phase application, the Applicant shall disclose and submit all such updated information with the License Phase application.

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10. Any additional information or documentation that the Board determines to be reasonably related to investigating the Applicant's plans, qualifications, and fitness for operating a Regulated Marijuana Store at the location specified in the License Phase application.
- (c) *License Phase Application Fees.* Along with the License Phase application, the Applicant must submit a License Phase application fee to the Town to cover costs associated with processing, investigating and administering the License Phase application process. The Licensing Phase application fee shall be established by the Town by resolution.
- (d) *Completeness Review.* Within fifteen (15) days of receiving a timely submitted License Phase application, the Town Clerk, or their designee, shall review such application for completeness. If a License Phase application is deemed incomplete, the Town Clerk, or their designee, shall notify the Applicant in writing, via email and U.S. mail, of the application's deficiencies, and the Applicant shall have forty-five (45) days from the date of the deficiency notice to remedy the deficiency(ies). If the Applicant fails to remedy the deficiency(ies) within the specified period, the Town Clerk shall deny the application and notify the Applicant of the denial.
1. Denial of an Application at the completeness review stage under this Subsection is appealable to the Town Manager by filing an appeal with the Town within ten (10) days of the date the notification of the denial was mailed. The Town Manager shall schedule a hearing within twenty (20) days of the filing of the appeal. The Town shall provide at least seven (7) days' notice to the appellant of the hearing. The Town Manager shall make a determination of the appeal within ten (10) days of the hearing and shall notify the appellant of the decision in writing.
  2. If a License Phase application is denied under this Section, the Town shall, within forty-five (45) days of such denial, notify the next alternate Applicant as selected under Section 6-5-7(i) to proceed with the License Application process under this Section 6-5-8.
- (e) *Staff Review.* Upon receipt of a completed License Phase application, the Town Clerk, or their designee, shall transmit copies of the application to all Town agencies and staff who the Board determines should participate in the review and investigation of the application.
1. Town staff, or other governmental agencies authorized by the Town, may visit and inspect the property and Licensed Premises of the proposed Regulated Marijuana Store.
  2. In investigating the fitness of the Applicant, the Town may obtain criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Town takes into consideration information concerning the Applicant's criminal history record, the Town shall also consider any information provided by the Applicant regarding such criminal history record, including without limitation, evidence of rehabilitation, community service, character references and educational achievements, especially those items

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pertaining to the period of time between the Applicant's last criminal conviction and the consideration of the License Phase Application.

3. Not more than thirty (30) days from the date the Town Clerk has deemed a License Phase application to be complete, and not less than fourteen (14) days prior to a public hearing held pursuant to Section 6-5-9, the Town Clerk shall report to the Board and the Applicant any findings or recommendations made on the License Phase application as a result of the investigation and review conducted pursuant to this Section.

#### **Sec. 6-5-9. Public Hearing**

- (a) The Town Clerk shall schedule a public hearing before the Board on the License Phase application.
  1. The public hearing shall be held not less than fourteen (14) days from the date the Town Clerk reported the findings under Section 6-5-8(e)(3).
  2. The public hearing shall only be held after the Town Planning Commission has reported its recommendations to the Board, pursuant to Town Code 12-2-31(B)(3)(a)(3), on the Applicant's Conditional Use Permit application.
- (b) The Town shall post and publish public notice of the hearing not less than fourteen (14) days prior to the hearing. The Town shall give public notice by the posting of a sign in a conspicuous place at the property of the proposed Regulated Marijuana Store, and by publication in a newspaper of general circulation in the Town.

#### **Sec. 6-5-10. Issuance or Denial of License.**

- (a) For the purpose of voting to approve or deny a License, the Board may consider the facts and evidence adduced as a result of:
  1. The review and investigation under Section 6-5-8(e).
  2. Review and investigation of the License Phase application by the Board.
  3. The recommendations of the Planning Commission.
  4. The testimony and evidence presented by the Applicant at the public hearing under Section 6-5-9, including any written or oral public comments submitted in conjunction therewith.
  5. Any other facts pertinent to the qualifications of the Applicant.
- (b) The Board has the authority to refuse to approve a License for good cause, including without limitation, if the Board has made the following findings:
  1. The Applicant has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions, or provisions of the License, the Town Code, the Colorado Marijuana Code, or any applicable state or local law, rule, or regulation.
  2. The Board has determined that the Applicant's character, record, or reputation is not satisfactory after consideration of factors, which include without limitation:

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- i. The Applicant has knowingly submitted false information, made willful misrepresentations, knowingly committed fraudulent acts, or omitted material facts;
      - ii. The Applicant has a criminal history of crimes of moral turpitude, which may include without limitation murder, burglary, robbery, arson, kidnapping, or sexual assaults;
      - iii. The Applicant has had a professional license, including without limitation a government-issued marijuana license, denied or revoked as a result of violations of law, rule, or regulation, or a finding of bad moral character by a government entity;
      - iv. The Applicant has been found to be currently delinquent in the payment of any state or local taxes, and has shown a pattern of failing to correct such delinquency;
    3. Specific evidence that approving the License will adversely affects the public health, safety, or welfare.
  - (c) No later than thirty (30) days from the date of the public hearing under Section 6-5-9, the Board shall issue its decision approving or denying the License. The decision shall be in writing and shall state the reasons for the decision. The Board shall send a copy of the decision, by email and U.S. mail, to the Applicant at the address shown in the application.
  - (d) The Board may impose reasonable conditions upon a License.
  - (e) After approval of a License, the Board shall not issue the License until:
    1. The Licensee has obtained all other required licenses and permits related to the operation of the Regulated Marijuana Store,
    2. The Regulated Marijuana Store building and site is approved for occupancy with such furniture, fixtures and equipment in place as are necessary to comply with the applicable provisions of all state and local laws and regulations, and any License conditions imposed by the Board.
  - (f) After approval of a License, the Board, or its designee, shall notify the MED of such approval.

#### **Sec. 6-5-11. License Renewal**

- (a) A License issued pursuant to this Article shall be valid for a period of one (1) year from the date of issuance and shall be renewed pursuant to this Section. An application for renewal shall be made to the Town Clerk not less than thirty (30) days prior to the date of expiration. The renewal application shall be accompanied by the annual operating fees for the renewal term.
- (b) A public hearing shall be conducted by the Board on the first renewal application of the License.
  1. The Board has the authority to refuse to renew a License for good cause, including without limitation, making findings as set forth in Section 6-5-10(b), or as follows:

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- i. A continuing pattern of disorderly conduct or drug-related criminal conduct upon or in the immediate vicinity of the Licensed Premises;
  - ii. A continuing pattern of criminal conduct directly related to or arising from the operation of the Regulated Marijuana Store;
  - iii. An ongoing nuisance condition emanating from or caused by the Regulated Marijuana Store; or
  - iv. The Applicant has failed to comply with any special terms or conditions of the License.
- (c) For all subsequent renewal applications timely filed, the License may be administratively renewed by the Town Clerk; *provided, however*, the Board shall have the discretionary authority to require a renewal hearing.

#### **Sec. 6-5-12. Contents and Display of License.**

The Licensee shall post the License in a conspicuous location at the Regulated Marijuana Store. A License shall contain at minimum the following information:

- (a) The name and any tradename of the Licensee;
- (b) The date of issuance of the License;
- (c) The street address of the Regulated Marijuana Store;
- (b) Any conditions of approval imposed upon the License by the Board;
- (c) The date of expiration of the License; and
- (d) The signatures of the Licensee and Town Clerk.

#### **Sec. 6-5-13. Change in Ownership Structure.**

- (a) In determining whether to permit a change in ownership structure, the Board shall require any proposed new Controlling Beneficial Owner(s) to submit to the Town:
- 1. A copy of a form of identification issued by the government of the United States, the government of any state within the United States, or the government of a United States Territory.
    - i. Such identification shall not be expired and shall include name, address, and date of birth.
  - 2. Evidence of lawful presence or residence in the United States.
  - 3. Completion of criminal and moral character disclosure form.
  - 4. Proof of Findings of Suitability issued by the MED.
  - 5. Proof of approval by the MED of a Marijuana Business License – Change of Controlling Beneficial Owner Application.
    - i. The applicant must also submit to the Town copies of such MED application(s).

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6. Curriculum vitae.
  7. Any additional information or documentation that the Board determines to be reasonably related to investigating the proposed new Controlling Beneficial Owner's plans, qualifications, and fitness for operating, or holding controlling beneficial ownership in, a Regulated Marijuana Store.

#### **Sec. 6-5-14. Transfer of Ownership**

- (a) For a Licensee to transfer fifty-one percent (51%) or more of its ownership to a third party transferee (including all Controlling Beneficial Owners associated therewith, the "Transferee"), the Transferee shall submit a Transfer of Ownership Application to the Town Clerk, including without limitation:
  1. A copy of a form of identification issued by the government of the United States, the government of any state within the United States, or the government of a United States Territory.
    - i. Such identification shall not be expired and shall include name, address, and date of birth.
  2. Evidence of lawful presence or residence in the United States.
  3. Completion of criminal and moral character disclosure form.
  4. Proof of Findings of Suitability issued by the MED for all Controlling Beneficial Owners of the Transferee.
    - i. The Transferee must also submit to the Town copies of all associated MED applications.
  5. Curriculum vitae for the Transferee, each Controlling Beneficial Owner, and any managers associated with the Transferee.
  6. If the Transferee is a business entity, information regarding the entity, including without limitation:
    - i. The name and address of the entity;
    - ii. Identification of all Controlling Beneficial Owners of the entity;
    - iii. Certificate of good standing from the Colorado Secretary of State;
    - iv. An organizational chart;
    - v. If a corporation: Articles of Incorporation, Shareholders Agreement, and Bylaws;
    - vi. If a limited liability company: Articles of Organization, and Operating Agreement; and
    - vii. Other business entity documentation as may be requested by the Town Clerk.

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7. A copy of any deed, lease, letter of intent, or other contract reflecting the right, or the right conditioned on License approval, of the Transferee to possess and operate a Regulated Marijuana Store at a location permitted by this Article.
    - i. If the property of the proposed Regulated Marijuana Store is located within an owners association, or a Planned Development under 12-2-25 of the Town Code, the Transferee shall provide proof that the proposed Regulated Marijuana Store use complies with all applicable covenants and required approvals thereunder.
  8. Comprehensive business plans, tailored to the location of the Regulated Marijuana Store, covering all subject areas set forth in Section 6-5-7©(9).
  9. Proof of submission to MED of a Marijuana Business License – Change of Controlling Beneficial Owner Application.
    - i. The Transferee must also submit to the Town copies of such MED application(s).
  10. Town Sales Tax License.
  11. Town Business License.
  12. Any additional information or documentation that the Board determines to be reasonably related to investigating the proposed new Transferee’s plans, qualifications, and fitness for operating, or holding controlling beneficial ownership in, the Regulated Marijuana Store.
- (b) *Staff Review.* Upon receipt of a completed Transfer of Ownership Application, the Town Clerk, or their designee, shall transmit copies of the application to all Town agencies and staff who the Board determines should participate in the review and investigation of the application.
1. Town staff, or other governmental agencies authorized by the Town, may visit and inspect the property and Licensed Premises of the Regulated Marijuana Store.
  2. In investigating the fitness of the Transferee, the Town may obtain criminal history record information furnished by a criminal justice agency subject to any restrictions imposed by such agency. In the event the Town takes into consideration information concerning the Transferee’s criminal history record, the Town shall also consider any information provided by the Transferee regarding such criminal history record, including without limitation, evidence of rehabilitation, community service, character references and educational achievements, especially those items pertaining to the period of time between the last criminal conviction and the consideration of the Transfer of Ownership Application.
  3. Not more than thirty (30) days from the date the Town Clerk has deemed a Transfer of Ownership Application to be complete, and not less than fourteen (14) days prior to a public hearing held pursuant to Section 6-5-14(c), the Town Clerk shall report to the Board and the Transferee any findings or recommendations made on the



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Transfer of Ownership Application as a result of the investigation and review conducted pursuant to this Section.

- (c) The Town Clerk shall schedule a public hearing before the Board on the Transfer of Ownership Application.
  - 1. The public hearing shall be held not less than fourteen (14) days from the date the Town Clerk reported the findings under Section 6-5-14(c)(3).
  - 2. The Town shall post and publish public notice of the hearing not less than fourteen (14) days prior to the hearing. The Town shall give public notice by the posting of a sign in a conspicuous place at the property of the Regulated Marijuana Store, and by publication in a newspaper of general circulation in the Town.
  - 3. An application fee shall accompany each Transfer of Ownership Application, in such amount as is established from time to time by resolution of the Board.
- (f) For the purpose of voting to approve or deny a Transfer of Ownership, the Board may consider the facts and evidence adduced as a result of:
  - 1. The review and investigation under Section 6-5-14(b).
  - 2. Review and investigation of the Transfer of Ownership Application by the Board.
  - 3. The testimony and evidence presented by the Transferee at the public hearing, including any written or oral public comments submitted in conjunction therewith.
  - 4. Any other facts pertinent to the qualifications of the Transferee.
- (g) The Board has the authority to refuse to approve a Transfer of Ownership for good cause, including without limitation, if the Board has made the following findings:
  - 1. The Transferee has violated, does not meet, or has failed to comply with any of the terms, requirements, conditions, or provisions of this Article, the Town Code, the Colorado Marijuana Code, or any applicable state or local law, rule, or regulation.
  - 2. The Board has determined that the Transferee's character, record, or reputation is not satisfactory after consideration of factors, which include without limitation:
    - i. The Transferee has knowingly submitted false information, made willful misrepresentations, knowingly committed fraudulent acts, or omitted material facts;
    - ii. The Transferee has a criminal history of crimes of moral turpitude, which may include without limitation murder, burglary, robbery, arson, kidnapping, or sexual assaults;
    - iii. The Transferee has had a professional license, including without limitation a government-issued marijuana license, denied or revoked as a result of violations of law, rule, or regulation, or a finding of bad moral character by a government entity;
    - iv. The Transferee has been found to be currently delinquent in the payment of any state or local taxes, and has shown a pattern of failing to correct such delinquency;

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3. Specific evidence that approving the License will adversely affects the public health, safety, or welfare.
- (h) No later than thirty (30) days from the date of the public hearing under this Section, the Board shall issue its decision approving or denying the Transfer of Ownership. The decision shall be in writing and shall state the reasons for the decision. The Board shall send a copy of the decision, by email and U.S. mail, to the transferring Licensee and the Transferee at the addresses on record.
  - (i) The Board may impose new reasonable conditions upon a transferred License.
  - (j) After approval of a Transfer of Ownership, the Board shall not issue the transferred License until:
    1. The Transferee has obtained all other required state and local licenses and permits related to the transfer and the operation of the Regulated Marijuana Store,
  - (k) After approval of a transferred License, the Board, or its designee, shall notify the MED of such approval.

**Sec. 6-5-15. Suspension or revocation.**

- (a) The Board may revoke or elect not to renew any License if it determines that the Licensed Premises has been inactive, without good cause, for at least one (1) year.
- (b) The Board has the authority to impose reasonable sanctions on a License and/or Licensee for violation by the Licensee, or any of its owners, agents, operators, employees, or contractor's, of the provisions of this Article, the Town Code, the Colorado Marijuana Code, or of any of the terms, conditions or provisions of the License.
  1. Sanctions may include, without limitation:
    - a. Suspension,
    - b. Fine,
    - c. Revocation, and/or
    - d. Probation.
  2. Prior to imposing any sanction under this Subsection, the Board shall conduct an investigation into the alleged violation and hold a public hearing at which the Licensee shall be afforded an opportunity to be heard.
  3. The Board has the power to administer oaths and issue subpoenas to require the presence of persons and the production of papers, books and records necessary to conduct a public hearing pursuant to this Subsection.
  4. Any License may be summarily suspended by the Board without notice pending a prosecution, investigation or public hearing pursuant to the Summary Suspension provisions of the Colorado Marijuana Code, 1 CCR §212-3(8-210(A)).
- (c) Whenever a decision of the Board suspending a license for fourteen (14) days or less becomes final, the Licensee may, before the operative date of the suspension, petition for

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permission to pay a fine in lieu of suspension for all or part of the suspension period. Upon the receipt of the petition, the Board may, in its sole discretion, stay the proposed suspension and cause any investigation to be made which it deems desirable and may, in its sole discretion, grant the petition if the Board is satisfied that such a grant will not negatively impact the health, safety, or welfare of the Town, and that the payment of the fine will achieve the desired disciplinary purpose(s).

**Sec. 6-5-16. Penalty.**

Failure to comply with the provisions of this Article shall constitute a violation of the Town Code, and, in addition to being grounds for denial, suspension, revocation, fine, probation, or other License sanction pursuant to Section 6-5-14, such violation may be punished by a civil penalty in an amount not exceeding the maximum fine provided in Section 1-4-10 of the Town Code. Proceedings for the determination of such civil liability and imposition of such civil penalty shall be conducted in the Town Municipal Court in the same manner as proceedings relating to noncriminal traffic infractions, in accordance with the provisions of Article 1 of Chapter 8 of the Town Code. In no case shall any defendant found guilty of any violation of this Article be punished by imprisonment for such violation.

**Sec. 6-5-17. Incorporation of state law.**

The provisions of the Colorado Marijuana Code, and any rules and regulations promulgated thereunder, are incorporated herein by reference, except to the extent that more restrictive or additional regulations are set forth in this Article.

**Sec. 6-5-18. Licensee Acknowledgements.**

Before issuing a License, the Board shall obtain written confirmation from the Licensee that the Licensee acknowledges, understands, and agrees to the following:

- (a) As of the date of the adoption of this Article, the cultivation, sale, possession, distribution and use of marijuana remains a violation of federal law, and this Article does not provide Licensee, or Licensee's owners, agents, operators, employees, customers or clients, with any protection from criminal prosecution or civil liability under such federal law. Licensees and their owners, operators, employees, customers and clients assume any and all risk and liability under federal law arising or resulting from the operation of the Regulated Marijuana Store.
- (b) The Town has no liability to a Licensee or any other Person for injuries, damages or liabilities of any kind, under any legal theory, arising out of the enforcement or application of any federal laws.
- (c) To the greatest extent permitted by law, any action taken under the provisions of this Article by any public officers, elected or appointed officials, employees, attorneys and agents of the Town, is not a personal liability of such person or of the Town.
- (d) Any documents and records submitted to the Town in regards to an application or License under this Article may be subject to disclosure pursuant to the Colorado Open Records Act.